REMARKS

Claims 1- 37 are pending in the application. Claims 1, 11, and 14 have been amended. No new matter has been added. Additional comments relating to the Examiner's remarks in the last Advisory Action are presented below.

CLAIM REJECTIONS

Rejection of claims over Panescu

The Examiner has maintained his rejection of claims 1, 2, 3, 7, 9, 11, 14, 17, 19, 20-22, 24-25, and 35-37 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,688,267 to Panescu ("Panescu"). Claims 1, 11, 14, and 17 are independent.

The Examiner maintains that the reference discloses "a catheter body (22) and a guide element (126) directed into tissue, and the catheter body (22) is dimensioned to pass or slide along [] and over the element (126)" in Figure 15. The Examiner also contends that Panescu "describes a device or a system for ablating tissue that includes an elongate member (22) defining a longitudinal passage or lumen having a distal opening and proximal opening dimensioned to pass or slide over a guide element (126) directed into the tissue." See pages 6-7 of Office Action dated May 26, 2004.

Applicant has discovered a device for ablating tissue in the living body including a guide element, and an elongate member defining a longitudinal passage having a distal opening and a proximal opening dimensioned to pass along or over a guide element directed into the tissue. The elongated member includes an electrode disposed at a distal portion of the elongate member and configured to be energized with high frequency energy to ablate tissue. See claims 1, 11, 14, and 17.

Panescu discloses a system and method for ablating heart tissue. The system and method in Panescu utilizes a steerable catheter that can be steered "through a main vein or artery (typically the femoral vein or artery) into the interior region of the heart that is to be treated' (see column 4, lines 51-59). The catheter "includes a handle 20, a flexible catheter body 22, and a catheter distal section 24, which carries the electrode 16" (column 4, lines 63-67). A stylet 126 which extends through the catheter body, is used to adjust the position of the movable temperature sensing element 22. The stylet is additionally connected to a

control knob 130 (column 19, lines 21-27). The stylet 126 in Panescu is **not** a guide element. Rather, it is the catheter in Panescu that positions the stylet. Moreover, the stylet 126 within the catheter is used for the purpose of moving the temperature sensing element.

Accordingly, Panescu does not describe a device or a system including a guide element and an elongate member defining a longitudinal passage having a distal opening and a proximal opening dimensioned to pass along and over the guide element directed into the tissue. See claims 1, 11, 14 and 17.

Independent claims 1, 11, 14 and 17.and dependent claims thereof, are not anticipated by Panescu. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection of claims over Brucker

The Examiner has further maintained his rejection of claims 1-20, 22-23, 25-30, and 33-34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat No. 5,500,012 to Brucker ("Brucker"). Claims 1, 11, 14, 17, and 28 are independent.

The Examiner maintains that the Brucker reference "discloses a passage (17) dimensioned to pass or slide over element (68; col. 5:47-49)" and "Brucker's embodiment in figure 12 does include electrodes (202)." The Examiner also notes that since "the independent claims do not claim the guide element, ... a guiding element and its structural characteristics are not required in the prior art to permit a valid rejection." See page 7 of Office Action dated May 26, 2004. The Examiner further states that "the independent claims only claim an elongate member." Id.

Applicant has discovered a device for ablating tissue in the living body including a guide element and an elongate member defining a longitudinal passage having a distal opening and a proximal opening dimensioned to pass over a guide element directed into the tissue, the elongated member including an electrode disposed at a distal portion of the elongate member and configured to be energized with high frequency energy to ablate tissue. Claims 11 and 14 have also been amended to recite "a guide element."

Applicant has also discovered a system for ablation of tissue in the living body including a guide element and an ablation system including: an elongate member defining a longitudinal channel having a distal opening and proximal opening, the elongate member

being dimensioned to slide along and over the guide element directed into the tissue; and an electrode at a distal portion of the elongate member and configured to be energized with high frequency energy to ablate the tissue. See claim 17.

Applicant has further discovered a method for thermal ablation of a target volume comprising: perforating and penetrating a living body using a guide element to establish a tract through the body to the target volume; sliding an electrode along and over the guide element directed into the body to position the electrode near the target volume, the electrode including an elongate member defining a longitudinal passage dimensioned to pass along the guide wire, a conductive surface at a distal portion of the elongate member, and an electrical connection between the conductive surface and a proximal portion of the elongate member; connecting the electrical connection to a high frequency generator; supplying high frequency energy from the generator through the electrode to the target volume to thermally ablate the target volume. See claim 28.

Brucker discloses a catheter system which is "divided into two separate devices. The first device is a mapping/guiding catheter" and "[t]he second device is an ablation catheter which delivers energy to the myocardium to destroy selected myocardial tissue" (column 1, lines 38-44). Element 68, as disclosed in Brucker, is **not** a guide element. Element 68 is actually "a laser catheter plastic tubing sheath 68" and is simply a sheath encasing a laser-type ablation catheter 50 within lumen 17 of a tubular guiding catheter (see col. 3, lines 42-47).

Brucker does not describe a device or a system that comprises a guide element. See amended claims 1, 11, 14 and claim 17. Brucker further does not describe perforating and penetrating a living body using a guide element. See independent claim 28. Brucker inserts mapping catheters into arteries or veins, and places such catheters in a heart chamber to measure electrical potential and stimulation (column 2, lines 1-5).

Accordingly, independent claims 1, 11, 14, 17, and 28 and dependent claims thereof, are not anticipated by Brucker. Applicant respectfully requests reconsideration and withdrawal of this rejection.

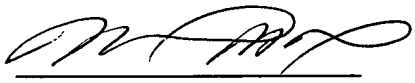
CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the pending rejections. Applicants believe that the claims now pending are in condition for allowance.

Should any fees be required by the present Amendment, the Commissioner is hereby authorized to charge Deposit Account **19-4293**.

If, for any reason, a telephonic conference with the Applicant would be helpful in expediting prosecution of the instant application, the Examiner is invited to call Applicants' Attorney at the telephone number provided below.

Respectfully submitted,



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